

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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UNITED STATES OF AMERICA

v.

DEAN DANIELS,  
WILLIAM BRADLEY,  
RICHARD "RICKY" SMITH,  
BRENDA DANIELS

INFORMATION

CASE NO.

**2 : 15 cr 44**

Violations:

18 U.S.C. § 371  
49 U.S.C. § 5124

Judge Graham

THE UNITED STATES ATTORNEY charges that at all times relevant to this  
Information, in the Southern District of Ohio, and elsewhere:

COUNT 1  
**Conspiracy to Commit Criminal Offenses  
and to Defraud the United States**  
18 U.S.C. § 371

**General Allegations**

***A. Persons and Business Entities***

1. New Energy Fuels LLC (NEF) was a business in Waller, Texas, that claimed to process animal fats and vegetable oils (feedstock) into ASTM D6751 biodiesel through a process called "transesterification," which involved mixing the feedstock with alcohol and a catalyst.
2. Chieftain Biofuels LLC ("Chieftain") was a business in Logan, Ohio, that claimed to process animal fats and vegetable oils into ASTM D6751 biodiesel through transesterification.
3. American Made Renewable Fuels LLC (AMRF) was a business in Florida that operated in Waller, Texas, and Logan, Ohio, and was associated with NEF and Chieftain.
4. NEF Partners INC was a business in Waller, Texas, associated with NEF.

5. Defendant DEAN DANIELS was a resident of Florida who served as an officer and employee of NEF and AMRF.
6. Defendant RICHARD “RICKY” SMITH was a resident of Florida who served as an employee of NEF and AMRF.
7. Defendant WILLIAM BRADLEY was a resident of Florida who served as an officer of NEF.
8. Defendant BRENDA DANIELS was a resident of Florida who served as an employee of NEF and AMRF.

***B. Renewable Identification Numbers***

9. Laws passed by Congress, particularly the Energy Independence and Security Act of 2007, required the U.S. Environmental Protection Agency (EPA) and the U.S. Internal Revenue Service (IRS) to promote renewable fuel production and use in the United States.
10. To this end, the EPA created a program requiring petroleum refiners and importers to have renewable fuel in their product portfolios. Under this program, refiners and importers must produce a certain amount of renewable fuel, or as an alternative to physically producing this fuel, they can purchase credits (called “renewable identification numbers” or “RINs”) from renewable fuel producers.
11. Registered renewable fuel producers generate RINs when they produce qualifying renewable fuels, such as biodiesel, in compliance with EPA regulations. Once a RIN is generated, it can be traded or sold on the open market.
12. RINs can be transferred in conjunction (i.e. “attached” or “assigned”) with the volume of fuel they were generated from, or, if lawfully separated from the fuel, they can be transferred independent of the fuel. There are various regulations governing when and how RINs can be separated from the underlying fuel.
13. Prior to July 1, 2010, businesses dealing in RINs sent reports to the EPA about their RIN activity, including RIN generations, separations, purchases, and sales. After July 1, 2010, such RIN transactions were reported electronically through the EPA Moderated Transaction System (EMTS).
14. Biodiesel RINs cannot be generated unless the biodiesel produced meets a set of industry standards known as ASTM D6751.

### ***C. Tax Credits***

15. Throughout 2009, 2010, and 2011, refundable tax credits were available for renewable fuel producers. Specifically there was a one-dollar-per-gallon “biodiesel mixture” tax credit for those who blended pure 100% biodiesel with petroleum-based diesel and then sold the resulting mixture for use as a motor vehicle fuel. If blenders complied with IRS regulations and submitted appropriate paperwork, they could earn one dollar per gallon of biodiesel, paid by the U.S. Department of Treasury. In the biodiesel industry, this program was known as the “blender’s credit” or the “blender’s tax credit.”
16. It was illegal to claim a blender’s tax credit for biodiesel unless it was produced, bought, blended, and sold in compliance with IRS rules and regulations. In particular, it was illegal to claim the credit unless the underlying biodiesel met ASTM D6751 and the blender submitted a legitimate “Certificate for Biodiesel” to the IRS.

### ***D. Transportation of Hazardous Materials***

17. 40 C.F.R. § 261.22 defines waste materials with a pH of less than or equal to two as hazardous waste with the characteristic of corrosivity. 49 C.F.R. § 105 deems all such hazardous wastes to be hazardous materials.
18. 49 C.F.R. 172.504 states that a transport vehicle carrying hazardous materials must be placarded. This regulation also lists the placards that must be used for the different classes of hazardous materials. For corrosive materials, the appropriate placards are listed under 40 C.F.R. § 172.558.
19. 49 C.F.R. § 172.506 requires that each person offering hazardous material for transportation by highway shall provide the motor carrier with appropriate placards.
20. 49 U.S.C. § 5124 criminalizes willful and reckless violations of 49 C.F.R. § 172.506. In particular, it prohibits a person from displaying a deliberate indifference or conscious disregard to the consequences of their conduct, such that they offer a motor carrier a hazardous material for transportation without the proper placards and where that carrier is not already so placarded.
21. Beginning at a time unknown to the government, but not later than July 1, 2010, and continuing thereafter until a time unknown to the government, but not earlier than March 1, 2012, in the Southern District of Ohio and elsewhere, the Defendants, DEAN DANIELS, RICKY SMITH, BRENDA DANIELS and WILLIAM BRADLEY did knowingly and willfully combine, conspire, confederate, agree, and reach a tacit understanding with each other and others known and unknown to the United States to

commit offenses against the United States and to defraud the United States, and agencies thereof.

22. Specifically, Defendants DEAN DANIELS, RICKY SMITH, WILLIAM BRADLEY, and BRENDA DANIELS conspired with others to:

- a. transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, in violation of 18 U.S.C. § 1343;
- b. make and present claims, specifically claims for the blender's tax credit, upon and against the United States and the IRS, knowing such claims to be false, fictitious, and fraudulent, in violation of 18 U.S.C. § 287;
- c. knowingly make false material statements, representations, and certifications in, and to knowingly omit material information from, notices, applications, records, reports, plans, and other documents required pursuant to the Clean Air Act, in violation of 42 U.S.C. § 7413(c)(2)(A);
- d. hamper, hinder, impede, impair, and obstruct by craft, trickery, deceit, and dishonest means, the lawful and legitimate functions of the EPA in enforcing Clean Air Act regulations governing renewable fuel mandates;
- e. hamper, hinder, impede, impair, and obstruct by craft, trickery, deceit, and dishonest means, the lawful function of the IRS by knowingly claiming and causing NEF and/or NEF Partners Inc. and Chieftain to claim blender's tax credits on biodiesel that was not eligible for those credits.

#### **Purpose of the Conspiracy**

23. The purpose of the conspiracy was to enrich the Defendants and others by unjustly claiming biodiesel RINs and biodiesel tax credits for the production of fuel that was not biodiesel. The co-conspirators would purchase low-grade feedstock and perform minimal processing to produce a low-grade fuel, known as #6, cutter, or bunker, ("bunker") while simultaneously representing to the EPA and the IRS that they had produced ASTM D6751-compliant biodiesel in order to claim biodiesel RINs and tax credits.

#### **Means and Methods of the Conspiracy**

24. Among the means and methods employed by Defendants to carry out the conspiracy and effect its unlawful objects were the following:

- a. Defendants DEAN DANIELS, RICKY SMITH, BRENDA DANIELS, and WILLIAM BRADLEY caused NEF and/or AMRF to purchase feedstock, including yellow grease and brown grease, and process it into a fuel known as “cutter” or “bunker.” Defendants then caused NEF to sell the resulting fuel to a fuel blender located in Channelview, Texas (“Channelview”). The bunker fuel was not biodiesel and did not meet ASTM D6751.
- b. Thereafter, Defendants caused NEF to generate biodiesel RINs in EMTS for the bunker sent to Channelview. Defendants also caused NEF Partners to submit requests to the IRS for biodiesel mixture credits for the bunker sent to Channelview.
- c. From on or about April 16, 2010, until on or about June 30, 2011, Defendants caused NEF to separate these fraudulent biodiesel RINs and sell them to various third parties. From on or about July 1, 2011, until on or about December 15, 2011, Defendants caused NEF to invoice Company A, owned and operated by Co-Conspirator A, for fuel with biodiesel RINs attached, knowing that Company A would thereafter sell the fuel to Channelview and separate and sell the RINs.
- d. From on or about October 1, 2011, until on or about February 29, 2012, Defendants DEAN DANIELS, RICKY SMITH, WILLIAM BRADLEY, and BRENDA DANIELS operated a purported biodiesel production facility in Logan, Ohio, known as Chieftain Biofuels. Co-Conspirator A arranged for loads of feedstock to be shipped to Chieftain where Defendants would minimally process it. The resulting fuel did not meet ASTM D6751. Defendants would then cause Chieftain to sell the fuel to Company A and Co-Conspirator A with assigned RINs. Co-Conspirator A would then arrange for the transportation of the resulting fuel to be shipped from Chieftain.
- e. Defendants thereafter caused Chieftain to fraudulently generate biodiesel RINs in EMTS and to fraudulently submit requests to the IRS for biodiesel mixture credits (until the tax credits expired).

#### ***Overt Acts***

25. In furtherance of the conspiracy and in order to effect the objects thereof, Defendants DEAN DANIELS, RICKY SMITH, BRENDA DANIELS, and WILLIAM BRADLEY, and others, both known and unknown, committed and caused to be committed the following overt acts in the Southern District of Ohio and elsewhere:
- a) Throughout 2011, one or more co-conspirators caused twenty-six Form 8849s to be sent from NEF Partners LLC to the IRS. These forms requested tax credits for the production of biodiesel that failed to meet ASTM D6751. Each of these requests constituted a separate overt act of the conspiracy.

<b>Period Covered</b>	<b>Gallons Produced</b>	<b>Dollars Claimed</b>
2/1/11-2/28/11	89420	\$89,420
3/1/11-3/15/11	259262	\$259,262
3/16/11-3/31/11	348678	\$348,678
4/1/11-4/15/11	259996	\$259,996
4/26/11-4/30/11	311461	\$311,461
5/1/11-5/15/11	219157	\$219,157
5/16/11-5/31/11	210925	\$210,925
6/1/11-6/30/11	16926	\$16,926
7/1/11-7/24/11	88642	\$88,642
7/25/11-7/31/11	190063	\$190,063
8/1/11-8/7/11	192413	\$192,413
8/8/11-8/14/11	180703	\$180,703
8/15/11-8/21/11	230955	\$230,955
8/22/11-8/28/11	358748	\$358,748
8/29/11-9/4/11	246129	\$246,129
9/5/11-9/11/11	184921	\$184,921
9/12/11-9/18/11	391365	\$391,365
9/19/11-9/25/11	360745	\$360,745
9/26/11-10/2/11	359294	\$359,294
10/3/11-10/9/11	320183	\$320,183
10/10/11-10/16/11	241697	\$241,697
10/17/11-10/23/11	182053	\$182,053
10/24/11-11/20/11	126401	\$126,401
11/21/11-11/27/11	120731	\$120,731
11/28/11-12/4/11	234630	\$234,630
12/5/11-12/11/11	82299	\$82,299

- b) From February 2010 through June 2011, one or more co-conspirators caused NEF to invoice Channelview for bunker fuel. Each invoice constitutes a separate overt act of the conspiracy.

Invoice Date	Invoice Price	PPG		Invoice Date	Invoice Price	PPG
2/19/2010	\$72,054.16	\$1.45		12/10/2010	\$57,306.53	\$1.78
4/16/2010	\$29,275.26	\$1.47		12/17/2010	\$72,015.80	\$1.80
5/3/2010	\$27,788.56	\$1.47		12/24/2010	\$22,346.08	\$1.81
5/7/2010	\$34,939.21	\$1.41		1/7/2011	\$71,236.91	\$1.85
5/14/2010	\$8,749.06	\$1.38		1/14/2011	\$49,548.98	\$1.88
6/4/2010	\$33,381.92	\$1.29		1/21/2011	\$10,577.77	\$1.87
6/11/2010	\$16,926.88	\$1.28		1/28/2011	\$24,128.35	\$1.89
7/9/2010	\$28,907.58	\$1.55		2/4/2011	\$10,783.08	\$2.00
7/13/2010	\$85,846.91	\$1.59		2/11/2011	\$74,242.64	\$2.02
7/23/2010	\$165,797.85	\$1.60		2/18/2011	\$71,732.06	\$2.09
7/26/2010	\$80,232.01	\$1.60/\$1.10		2/25/2011	\$28,755.22	\$2.22
8/9/2010	\$95,100.17	\$1.66		3/4/2011	\$291,609.18	\$2.28
8/13/2010	\$106,833.22	\$1.60		3/11/2011	\$299,507.29	\$2.28
8/23/2010	\$140,063.68	\$1.53		3/18/2011	\$272,450.85	\$2.21
9/9/2010	\$54,831.94	\$1.58		3/25/2011	\$280,209.07	\$2.28
9/17/2010	\$113,247.47	\$1.60		3/31/2011	\$239,845.46	\$2.34
9/24/2010	\$92,701.99	\$1.59		4/8/2011	\$256,208.75	\$2.45
9/30/2010	\$59,369.89	\$1.63		4/15/2011	\$371,457.18	\$2.39
10/8/2010	\$129,794.00	\$1.73		4/22/2011	\$387,184.73	\$2.39
10/15/2010	\$72,660.93	\$1.70		4/29/2011	\$363,184.61	\$2.43
10/22/2010	\$81,950.86	\$1.67		5/6/2011	\$348,923.88	\$2.32
10/22/2010	\$52,584.83	\$1.69		5/13/2011	\$155,395.17	\$2.26
11/5/2010	\$11,878.42	\$1.74		5/20/2011	\$290,463.47	\$2.21
11/12/2010	\$24,260.00	\$1.78		5/27/2011	\$180,450.95	\$2.27
11/19/2010	\$108,597.70	\$1.68		6/20/2011	\$14,735.18	\$2.36
12/3/2010	\$68,112.07	\$1.76		6/24/2011	\$24,744.38	\$2.28

- c) From July 2011, through December 2011, one or more co-conspirators caused NEF to invoice Company A for bunker fuel. Each invoice constitutes a separate overt act of the conspiracy.

DATE	Invoice Price	PPG
7/22/2011	210441.62	2.35
7/29/2011	448619.12	2.36
8/5/2011	448391.6	2.33
8/12/2011	393996.39	2.18
8/19/2011	522041.95	2.26
8/26/2011	811581.17	2.26
9/2/2011	571590.65	2.32
9/6/2011	38614.67	2.097
9/9/2011	383179.54	2.25
9/14/2011	26285.92	2.12
9/16/2011	838380.88	2.21
9/23/2011	783500.93	2.17
9/30/2011	755274.26	2.1
10/7/2011	673057.76	2.1
10/14/2011	539523.73	2.23
10/21/2011	402739.06	2.21
11/18/2011	282156.38	2.23
11/25/2011	254998.56	2.11
12/3/2011	254998.56	2.11
12/3/2011	493217.02	2.1
12/9/2011	170528.47	2.07

- d) From July 7, 2010, until on or about December 9, 2011, one or more co-conspirators caused NEF to electronically “generate” biodiesel RINs through EMTS on 1,084 occasions. Each event constitutes a separate overt act of the conspiracy.
- e) From on or about October 1, 2011, until on or about February 29, 2012, one or more co-conspirators caused Chieftain to electronically “generate” biodiesel RINs through EMTS on 537 occasions. Each event constitutes a separate overt act of the conspiracy.
- f) On September 8, 2011, Defendant RICKY SMITH sent a “spec sheet”/certificate of analysis for the bunker fuel produced by NEF to Channelview and Defendant DEAN DANIELS.
- g) On April 21, 2010, Defendant BRENDA DANIELS sent an email to Channelview, with Defendants DEAN DANIELS and RICKY SMITH copied, attaching a contract for the bunker fuel at issue.
- h) On February 22, 2011, Defendant BRENDA DANIELS sent an email to Channelview that stated “Attached is the invoice for the 49,761.16 gallons of fuel delivered to your Channelview facility. As agreed, the price per gallon is based on



Platt's U.S. Oilgram posting (85%) of the U.S. Gulf Coast No 6, 3% low @ (weekly average)."

- i) On May 3, 2010, Defendant BRENDA DANIELS sent an email to Channelview that stated "Attached is the invoice for last week along with the BOL's and weight tickets."
- j) On July 12, 2010, Defendant BRENDA DANIELS sent an email to Channelview that stated "Your invoice is attached. I spoke to the GM, she said to go ahead and invoice for dirty cutter pricing."
- k) On August 2, 2010, Defendant DEAN DANIELS sent an email to Channelview, copying Defendants RICKY SMITH and WILLIAM BRADLEY, which acknowledged a "water problem" with recent loads of fuel, and asked for a price for this fuel, and how much more of it Channelview could handle.
- l) On July 24, 2011, Co-Conspirator A sent an email to Channelview, with Defendant DEAN DANIELS copied, that stated "Please find [Company A] invoice for product delivered to Channelview, via [NEF] the week of 07/18/11. I will call you in the morning to introduce myself, confirm receipt of invoice, and transfer schedule."
- m) On November 17, 2011, Co-Conspirator A sent an email to Channelview, with Defendants DEAN DANIELS and RICKY SMITH copied, that responded to a complaint from the blender about the ash content in recent product deliveries by stating "Someone is on the way now to pick up the sample and bring it to the lab."
- n) On multiple occasions, Defendant BRENDA DANIELS sent emails to Defendants DEAN DANIELS, RICKY SMITH, and WILLIAM BRADLEY containing NEF's weekly balances - including cash, expenditures, RINs, and fuel.
- o) On April 12, 2010, Defendant DEAN DANIELS sent an email to Defendants BRENDA DANIELS and WILLIAM BRADLEY that stated "[the Channelview blender] would take all the petroleum cutter stock we can produce."
- p) On July 17, 2010, Defendant DEAN DANIELS sent an email to Defendants BRENDA DANIELS, RICKY SMITH, and WILLIAM BRADLEY that stated "I think we send to the highest bidder [whether] it be [Channelview] or [another blender]...I say [Channelview] gets it all. They pay and take the shit when it is not good."
- q) On July 25, 2011, Co-Conspirator A sent an email to Channelview, with Defendant DEAN DANIELS copied, that attempted to explain certain wording in Company A's invoice to Channelview which had been questioned.
- r) On August 12, 2010, Defendant RICKY SMITH sent Defendant BRENDA DANIELS an email regarding a recent inquiry from a prospective RIN purchaser who wanted to talk to Channelview directly. SMITH asked "How do you think we get around them talking [or] emailing [Channelview]. I just don't want them dealing directly with [Channelview]. And does this need to say renewable biodiesel."

All in violation of Title 18, United States Code, Section 371.

**COUNT 2**

**Failure to Placard**


49 U.S.C. § 5124 & 49 C.F.R. § 172.506

26. The allegations contained in paragraphs 1 through 20 are realleged and incorporated herein as though set forth in full.

27. On or about May 1, 2011, in the Southern District of Texas, Defendant DEAN DANIELS did recklessly violate and cause others to violate transportation safety regulations by offering a motor carrier a hazardous material for transportation by highway without the required placards prior to or at the same time the material was offered for transportation, to wit: waste "decant" material generated at NEF with a pH of less than two.

All in violation of 49 U.S.C. § 5124

CARTER M. STEWART  
United States Attorney

  
BRENDA S. SHOEMAKER (0041411)  
Financial Crimes Chief  
Assistant United States Attorney

